UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

TONY ALEXANDER,                              )      CASE NO. 1:06 CV 2508
                                             )
         Plaintiff,                          )      JUDGE SOLOMON OLIVER, JR.
                                             )
    v.                                       )
                                             )      MEMORANDUM OF OPINION
JOHN J. RUSSO, et al.,                       )      AND ORDER
                                             )
         Defendants.                         )

On October 17, 2006, plaintiff pro se Tony Alexander filed this action under 42 U.S.C. § 1983 against Cuyahoga County Common Pleas Court Judge John J. Russo and John Doe. The complaint alleges Judge Russo entered an improper postjudgment entry which had the effect of extending plaintiff's sentence.  For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915A.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000)

The complaint explicitly challenges plaintiff's state prison sentence.  The Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S.

475, 501 (1973).  Further, absent allegations that criminal proceedings terminated in plaintiff's favor

or that a conviction stemming from the asserted violation of his rights was reversed, expunged by

executive order, declared invalid by a state tribunal, or called into question by a federal court's

issuance of a writ of habeas corpus, he may not recover damages for his claim.  Heck v. Humphrey,

512 U.S. 477 (1994).

Accordingly, this action is dismissed under section 1915A.  Further, the court

certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken

in good faith.

IT IS SO ORDERED.


/s/*SOLOMON OLIVER, JR.*
UNITED STATES DISTRICT JUDGE

December 6, 2006